

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

RIDING FILMS, INC.,

Plaintiff,

vs.

Civil Action 2:13-cv-46
Judge Marbley
Magistrate Judge King

JOHN DOES 129-193,

Defendants.

ORDER and REPORT AND RECOMMENDATION

Plaintiff's claims against defendants Denham and Wintle have been settled and dismissed, ECF 65; Order, ECF 79, but the counterclaims asserted by these defendants for declaratory judgment remain pending. On February 10, 2015, all remaining parties were directed to report, within fourteen (14) days, on the status of the remaining claims, Order, ECF 80, and the remaining parties were expressly advised that their failure to report "will be construed as an abandonment of any claims asserted by them and is likely to result in the dismissal of such claims." *Id.* at 2. Counterclaimants Denham and Wintle have failed to comply with that order and it appears that they do not intend to pursue their counterclaims.

It is therefore **RECOMMENDED** that the counterclaims asserted by defendants Denham and Wintle be **DISMISSED for failure to prosecute**.

Plaintiff has asked for an extension of time to file a motion for summary judgment addressing the claims against defendant Glasco.

Response to Status Report [sic], ECF 83. That request is **GRANTED**. All

motions for summary judgment must be filed, if at all, by March 20, 2015.

If any party seeks review by the District Judge of this *Report and Recommendation*, that party may, within fourteen (14) days, file and serve on all parties objections to the *Report and Recommendation*, specifically designating this *Report and Recommendation*, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy thereof. Fed. R. Civ. P. 72(b).

The parties are specifically advised that the failure to object to the Report and Recommendation will result in a waiver of the right to *de novo* review by the District Judge and waiver of the right to appeal the judgment of the District Court. *See, e.g., Pfahler v. Nat'l Latex Prod. Co.*, 517 F.3d 816, 829 (6th Cir. 2007) (holding that "failure to object to the magistrate judge's recommendations constituted a waiver of [the defendant's] ability to appeal the district court's ruling"); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005) (holding that defendant waived appeal of district court's denial of pretrial motion by failing to timely object to magistrate judge's report and recommendation). Even when timely objections are filed, appellate review of issues not raised in those objections is waived. *Robert v. Tesson*, 507 F.3d 981, 994 (6th Cir. 2007) ("[A] general objection to a magistrate judge's report, which

fails to specify the issues of contention, does not suffice to preserve an issue for appeal" (citation omitted)).

s/Norah McCann King
Norah M^cCann King
United States Magistrate Judge

March 6, 2015